
In the Matter of

* LOUISIANA STATE BOARD OF

RICARDO ARAUNE, P.T.

* PHYSICAL THERAPY EXAMINERS

License No. 01296R

Respondent

* Case Number 2003-130

CONSENT ORDER

A complaint received by the Louisiana State Board of Physical Therapy Examiners (Board) raised the issue that Respondent Ricardo Araune, a physical therapist licensed by the Louisiana State Board of Physical Therapy Examiners, was reporting working the same work hours providing physical therapy at two nursing homes. Employment and personnel records for respondent were subpoenaed for the months of April, May and June, 2003 and received from TriStar Rehab, Inc. (TriStar) and Claiborne Healthcare, a division of Nexium, Inc. (Claiborne), Respondent's employers during the period in question. Respondent was requested to participate in an Informal Conference with Investigating Board Member Chuck Reynolds, Executive Director Cheryl Gaudin and Board Counsel Glenn Ducote participating. Also present was Respondent's wife, Stacy Araune.

FINDINGS OF FACT

1. Time sheets submitted by Respondent to his two employers, TriStar and Claiborne, for the period from April 1, 2003 through June 30, 2003 reflect that on all but a few work days during that period Respondent reported work hours which overlapped substantially so that he was being paid by both employers for the same hour(s). On several occasions, Respondent was being paid overtime for hours which he also reported to the other employer. The inevitable result was that physical therapy patients who Respondent reported seeing at both places of employment were either not seen at all, or were seen for substantially less time than reported in patient records and in billing for services provided to the patients.

2. Respondent acknowledges that he reported the same work hours to two different employers on numerous occasions.

3. Respondent indicates that this situation arose as a result of having too many patients to see within the actual available time for patient care. Respondent acknowledges that he could have chosen to work for one employer or the other, but continued to work for both because of the increased hours of work available and because he was able to enhance his income.

4. Respondent also indicates that on many occasions he continued to see patients after he signed out in order to meet patient needs and not violate employer policies against treating patients too early or too late in the day/night.

CONCLUSIONS OF LAW

Respondent's conduct described above and otherwise reviewed in this action is subject to and/or in violation of the following provisions of law regarding his practice of physical therapy:

1. The Board has the authority to suspend or revoke a license which it has issued upon proof of unprofessional conduct, among other grounds. La. .R. S. 37:2413 and Board Rule 325.

2. As used in the Physical Therapy Practice Act, "unprofessional conduct" includes: departure from, or failure to conform to the standards of acceptable and prevailing physical therapy practice in the State of Louisiana, regardless of whether actual injury to a patient results therefrom; making or participating in any communication which is false, fraudulent, deceptive, misleading or unfair; and the abuse or exploitation of the physical therapy provider patient relationship for the purpose of securing personal compensation, gratification or benefit unrelated to the provision of physical therapy services. Rule 327E(1), (3) and (6).

3. Board Rules incorporate the Code of Ethics and Guide for Professional Conduct of the American Physical Therapy Association. Rules 305B and 331.

4. A physical therapist shall act in a trustworthy manner towards patients/clients, and in all other aspects of physical therapy practice. APTA Code of Ethics, Principle 2. A physical therapist shall not exploit any aspect of the physical therapist/patient relationship. A physical therapist shall not make statements that he/she knows or should know are false, deceptive, fraudulent, or unfair. APTA Guide for Professional Conduct 2.1B; 2.2.

5. A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services. APTA Code of Ethics, Principle 7. A physical therapist's business/employment practices shall be consistent with the ethical principles of the Association. A physical therapist shall never place his/her own financial interest above the welfare of individuals under his/her care. A physical therapist shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, or rebating of an unearned fee. APTA Guide for Professional Conduct 7.1A, B & F.

6. A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts. APTA Code of Ethics, Principle 9. A physical therapist shall not engage in any conduct that is unethical, incompetent or illegal. APTA Guides for Professional Conduct 9.1B.

DECISION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, and in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

A. Respondent's license to practice physical therapy will be suspended for three months, beginning November 15, 2003. for the conduct described above.

B. Upon completion of the above suspension of license, Respondent shall be eligible to have his license returned to active status and on probation for four additional years, during which period his employment records and patient treatment records will be subject to random inspection

and review for full legal compliance by a designated Board representative. During this four year probationary period, Respondent shall remit to the Board by the fifth day of each month a monitoring fee of \$50 as reimbursement for the expenses of investigation and monitoring arising out of Respondent's conduct. This four year probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist and regularly working at least twenty hours per week within the State of Louisiana. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Board in writing within ten days of the last date Respondent has practiced physical therapy in Louisiana.

C. At his own expense, Respondent shall enroll in and successfully complete during 2004 a continuing education course in the ethics of physical therapy practice, which course shall be approved in advance in writing by the Board Executive Director.

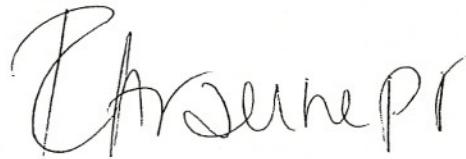
D. Respondent shall cooperate with Board representatives seeking to verify or document that the requirements of this Consent Order have been met and that legal and ethical procedures are in place and being complied with.

E. Respondent declares that, before signing this Consent Order, he has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a notice of hearing, to a formal administrative hearing and to judicial review of this Consent Order, and freely waives those rights. He has been informed of the right to seek counsel and has either done so or waives right to counsel.

F. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board and that the presentation to and consideration by the Board of this Consent Agreement, including presented documentary evidence and information, shall not unfairly or illegally prejudice or preclude the Board, or any of its members, from further participation in hearings or resolution of these proceedings.

G. Respondent understands that this Consent Order becomes effective only upon signature by the Board Chair.

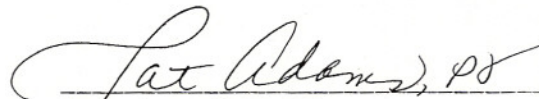
SWORN TO AND SUBSCRIBED on this 11th day of November, 2003.



Ricardo Araune, P.T.

AGREED AND ACCEPTED by official action of the Board, the 30th day of October, 2003 at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF
PHYSICAL THERAPY EXAMINERS



Pat Adams, P.T., Chair

LOUISIANA STATE BOARD OF PHYSICAL THERAPY EXAMINERS
Monitor Tracking Guide

Case Number: 2003-I30

Date: March 22, 2006 Licensee: Ricardo Araune, PT # 01296R

Purpose of monitor visit: Unannounced follow-up visit pursuant to Consent Order of November 11, 2003.

Evidence of Compliance: Documentation records appear in order and demonstrate compliance with the terms of the Consent Order ; John Deaton, PT Ricardo's Supervisor, was interviewed and reports no problems with Ricardo's work performance.

Evidence of Non-Compliance: _____

Attachments: _____

Board Designee: Donna (Dee) Cochran, MHS, PT Advisory Committee Member

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LOUISIANA STATE BOARD OF PHYSICAL THERAPY EXAMINERS
Monitor Tracking Guide

Case Number: 2003-I30

Date: June 22, 2005 Licensee: Ricardo Araune, PT # 01296R

Purpose of monitor visit: Unannounced follow-up visit pursuant to Consent Order of November 11, 2003.

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Evidence of Non-Compliance: _____

Attachments: _____

Board Designee: Donna (Dee) Cochran, PT, Advisory Committee Member